

OGC Has Reviewed

TAB "B"

1. In the memorandum from Office of General Counsel to the Director, dated 25 April 1949, there is a recommendation that CIA support the provision in the Classification Act of 1949 exempting CIA from the provisions of the bill. It is stated that the Executive and his deputy and the Personnel Officer concur in the recommendation. The benefits to be gained by exempting CIA were listed as (a) Security, (b) Speed and (c) Understanding (competence or ability of the Civil Service Commission to understand the unusual nature of the duties of certain employees). There was also raised for consideration whether or not the bill might provide that CIA should comply with the provision requiring clearance or approval of GS-18 positions with the President. Further, it was suggested that there be considered the advisability of adding a section binding the Agency to be guided by the wage scales and general position standards set forth in the bill. There was an additional suggestion that language be included in the bill to enable CIA to request the assistance of the Civil Service Commission in matters of job descriptions and allocations.
2. By letter, dated 5 May 1949, to the Bureau of the Budget, the DCI forwarded a proposed report to the Chairman of the House Committee on Post Office and Civil Service on the pending Classification Act of 1949. In reply, the Bureau of the Budget, on 9 June 1949, stated that there would be no objection to submission of the proposed report to the Committee. Subsequently, the report went forward on 11 June 1949 over the signature of the DCI to Congressman Tom Murray, Chairman, Committee on Post Office and Civil Service. The letter states that after careful study we would desire to have complete exemption from the proposed provisions of the Act. Pertinent excerpts follow:
 - a. "Our primary reason in endorsing this exception is one of security."
 - b. "However, the Agency does expect to adhere to the provisions of this bill, and to that end it is suggested that the following language be included after the semi-colon on page 5, line 8:

"The Director of Central Intelligence is authorized to employ, for services in the District of Columbia or elsewhere, such number of employees of the various classes recognized in this act to

perform the functions of the Central Intelligence Agency, as may be appropriated for by Congress from year to year, and in so doing he shall adhere to the standards, classes and grades set forth herein."

- c. "Under certain conditions, moreover, we may wish from time to time to call upon the Civil Service Commission for advice and assistance, particularly in view of the close cooperation we have had from them in the past, and the cordial relations we have always enjoyed with them."

- 3. In the Memorandum for the Files by the General Counsel, dated 26 July 1949, there is recorded a conversation held by the General Counsel with Mr. Fisher, General Counsel for the General Accounting Office. That conversation was related to the pending Classification Act exempting CIA. Consistent with the policy at that time, Mr. Fisher was advised:

"I said it was our intent to abide by the Classification Act just as if the Commission were still controlling; the only difference is that the matter of classification would be handled internally."

- 4. There is a letter to CI, dated 8 August 1949, signed by Ismar Barnuch, Chief, Personnel Classification Division, United States Civil Service Commission which was written in response to previous inquiries concerning the effect of Public Law 110 on application of the Classification Act of 1923 to CIA. The Commission took the position that CIA need not follow the Classification Act, based on the provisions of Public Law 110. However, included in that letter were references to CIA's proposed administration of salary and classification matters:

- a. "We are gratified to learn that notwithstanding the legal conclusion stemming from the terms of the statute, you intend, as an administrative policy, to follow the basic philosophy and principles of the Classification Act, the Civil Service Commission's allocation standards, the pay scales, the within-grade salary advancement plans, and the pay rules of the Classification Act, as they may be amended from time to time, in substantially the same manner as the Classification Act provides."

b. "Under these conditions, we are glad to offer our services as a source of information, advice, and the certification of advisory allocations when you desire such action. We appreciate the soundness of your administrative policy with respect to position-classification and salary standardization. Within our resources, we will do all we can to aid you."

5. The DCI, on 10 August 1949, acknowledged receipt of the above-mentioned letter from Mr. Baruch of the Civil Service Commission and expressed appreciation for cooperation and advised as follows:

"You may be assured that in our internal personnel administration we will be governed by the basic philosophy and principles of the Classification Act, the Civil Service Commission's allocation standards, the pay scales, the within-grade salary advancement plans, and the pay rules of the Classification Act, as they may be amended from time to time, in substantially the same manner as provided for other agencies."

6. Under date of 2 November 1949, the DCI requested from the Comptroller General an opinion concerning the establishment of grades 16, 17 and 18 within CIA without reference to the provisions in the Classification Act of 1949 limiting the number of such positions and requiring approval thereof by the Civil Service Commission and by the President for grade 18 positions. After discussion on various laws involved, the Director stated:

"In view of the foregoing, I propose to establish certain positions in this Agency in grades equivalent to those in the General Schedule Grades 16, 17, and 18, as provided in the Classification Act of 1949. These positions would be so allocated on my determination that the responsibilities of the officials concerned would be equivalent to those contemplated by the Congress in establishing these new grades."

7. In response to that request, the Comptroller General furnished an opinion to the Director on 15 November 1949. A portion of the last paragraph of that opinion reads as follows:

"Accordingly, there would appear to be no legal objection to the establishment of positions in your Agency, for other than professional and scientific duties, with salaries and responsibilities comparable with those provided in General Schedule Grades 16, 17, and 18 without regard to the limitations contained in section 505 of the Classification Act of 1949." (Underlining supplied).